

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

MARCELLA MCGLOTHLIN and	)	
STEPHEN MCGLOTHLIN,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Cause No. 1:20-cv-02187-SEB-MG
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

**PLAINTIFFS' STATEMENT OF CLAIMS**

Plaintiffs, Marcella McGlothlin and Stephen McGlothlin, by counsel, pursuant to Rule 11(b) of the Federal Rules of Civil Procedure, submit the following statement of claims they intend to prove at trial, and the legal theories on which those claims are based.

This case arises from a slip and fall incident which occurred on December 21, 2018. Plaintiff, Marcella McGlothlin, was attempting to descend exterior metal stairs as she exited a work trailer, at the 157th Infantry Motor Pool located on Harrison Street, on the premises of Camp Atterbury, Johnson County, Edinburgh, Indiana. Due to a combination of a shift and lack of traction on the metal stairs, Marcella McGlothlin slipped and fell down the stairs. Employees of the United States under the Federal Tort Claims Act, Dan Westfall, Theo Baudendistel, Cory Krites, and Michael Jackson, in the course and scope of their employment, contributed to the cause of the incident in failing to carefully inspect, maintain and keep a hazard free premises, failing to maintain its stairs and for failing to warn of a danger.

Although, the United States through its licensing agreement with the Indiana National Guard may not have retained control of the *entire* premises at Camp Atterbury, there was, and is, an agreement between Camp Atterbury-Muscatatuck, the Indiana National Guard, and the 157<sup>th</sup> Infantry Brigade of the United States Army which was in effect at the time of Marcella McGlothlin's fall that establishes the United States had control of the premises where the fall occurred. The agreement provides that the 157<sup>th</sup> Infantry Brigade, a unit of First Army, has been stationed at Camp Atterbury since 2011. The agreement provides the 157th Infantry Brigade occupied and had exclusive use of the building where the subject incident occurred. Further, Theo Baudendistel testified that the active duty unit has always been the decision maker responsible for the trailer's maintenance. The United States had control of the premises at the time of the incident.

As a result of the incident, Marcella McGlothlin, suffered and complained of injuries to her right ankle, which are permanent, and to her left ankle. Marcella McGlothlin has incurred medical expenses for necessary medical treatment in the amount of \$213,313.96 to date and has lost wages of \$42,320.00 with future lost wages of \$33,166.80. Marcella McGlothlin may incur such further medical expenses and losses in the future, as well as the loss of a whole, complete, and useful life because of her injuries. Marcella McGlothlin's damages were the proximate result of the carelessness and negligence of Dan Westfall, Theo Baudendistel, Cory Krites, and Michael Jackson, while in the course and scope of their employment with Defendant, United States of America. Due to the injuries that Plaintiff Marcella McGlothlin suffered, Stephen McGlothlin, her husband has lost the care, comfort and services of his wife.

Discovery continues and, therefore, this Statement may be amended to reflect any

additional information obtained through the discovery process.

Respectfully Submitted,

/s/ Collin Green \_\_\_\_\_

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing pleading has been filed electronically using the e-filing system and served on the following this 14th day of February, 2022:

Lara Langeneckert  
Assistant United States Attorney  
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/s/ Collin W. Green \_\_\_\_\_

Collin W. Green